COMMISSION REGULATION (EC) No 3206/93

of 23 November 1993

amending Regulation (EEC) No 2228/91 laying down provisions for the implementation of Council Regulation (EEC) No 1999/85 on inward processing relief arrangements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements [1], and in particular Article 31 thereof,

Whereas Commission Regulation (EEC) No 2228/91 [2], as last amended by Regulation (EEC) No 3709/92 [3], laid down provisions for the implementation of Regulation (EEC) No 1999/85;

Whereas examining the economic conditions, in order to take account of commercial considerations in certain sectors, it is appropriate that the rules whereby those conditions are deemed to be met where the applicant for inward processing relief can prove that he has obtained 80 % of his total requirements from within the Community should be made more flexible by including in that percentage any own production of comparable goods;

Whereas the administrative costs to the space industry of using the arrangements should be reduced for economic reasons; whereas certain inward processing operations carried out in the space industry should be considered to fulfil the economic conditions, notably where they involve component parts intended for the construction of satellites or parts of satellites for which imported goods are covered by no other relief arrangements; whereas such parts should be treated as exports and it would also be advisable not to require the communication of inward processing authorizations issued to operators in this sector;

Whereas it is necessary to ensure that use of the prior exportation system benefits only the holder of the authorization;

Whereas in accordance with Article 2 (4) of Regulation (EEC) No 1999/85, measures designed to prohibit or limit recourse to the system may be adopted; whereas it is necessary, in order to ensure that the legislation does not produce unintended consequences, to define the conditions subject to which prior export operations may take place;

Whereas in order to reduce the administrative cost of the triangular traffic system, simplified formalities should be allowed at the request of firms whose frequency of export trade is sufficiently substantial to warrant a derogation from the rule requiring endorsement of the INF 5 information sheet: whereas a procedure for handling such requests should be laid down;

Whereas compensatory interest should be collected only where an unjustified financial advantage has arisen due to postponement of the date on which the customs debt is incurred; whereas to this end provision should be made not to apply compensatory interest where a customs debt is incurred following an application for release for free circulation pursuant to Article 27 (3) of Regulation (EEC) No 1999/85, and provided that the import duties paid on entry for the arrangements have not actually been repaid or remitted;

Whereas the uniform application of the provisions concerning exchanges of information between the Member States and the Commission on the authorizations issued should be ensured; whereas it should therefore be stipulated that information must additionally be transmitted, on the one hand, when the economic conditions are re-examined for authorizations of indefinite duration and, on the other hand, when changes are made to information previously reported concerning authorizations already issued;

Whereas it is advisible to modify and complete the list of cases in which standard rates of yield apply;

Whereas the list of compensating products on which duty may be levied in accordance with their specific characteristics should be extended;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee for Customs Procedures with Economic Impact,

[1] OJ No L 188, 20. 7. 1985, p. 1.
[2] OJ No L 210, 31. 7. 1991, p. 1.
[3] OJ No L 378, 23. 12. 1992, p. 6.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2228/91 is hereby amended as follows:

1. the second subparagraph of Article 7 (1) (a) is hereby replaced by the following:

'To make use of this provision, the applicant must supply the customs authority with supporting documents that enable the authority to satisfy itself that the intended procurement of Community goods may be reasonably carried out. Such supporting documents, to be annexed to the application, may take the form, for example, of copies of commercial or administrative documents which refer to procurement in an earlier reference period, or orders or intended procurement for the period in question.';

2. in Article 7 (1) the following is added:

'(f) is building satellites or parts of satellites.';

3. the following point (e) is inserted in Article 8 (2):

'(e) the delivery, in the form of compensating products, of goods used for the construction of satellites and ground station equipment belonging to those satellites, destined for launching sites established in the customs territory of the Community. As to the said ground station equipment, the assimilation of delivery to export is only definitive at the moment this equipment receives one of the authorized customs destinations provided for in Article 18 (1) and (2) (a), (b), (d), (e) and (f) of the basic Regulation.';

4. Article 9 is replaced by the following:

'Article 9

1. Without prejudice to Articles 10 and 11, where use is to be made of equivalent compensation, the equivalent goods must fall within the same CN code, be of the same commercial quality and have the same technical characteristics as the import goods.

2. The use of the prior exportation system is not possible for authorizations to be issued on the basis of one or more of the economic conditions referred to by codes 6201, 6202, 6301, 6302 and 6303 and 7004, 7005 and 7006, and unless the applicant is able to prove that use of this system benefits only the holder of the authorization.';

5. Article 18 (1) is replaced by the following:

'1. The entry of goods for the arrangements using the suspension system shall be subject to the lodging of a declaration of entry for the arrangements.

The said goods may also be entered for the arrangements by another person established in the Community on behalf of the holder of the authorization, provided that he has the consent of the holder of the authorization and that the conditions of the authorization are fulfilled.

The person making the declaration is hereinafter referred to as the "declarant".';

6. the following is added to Article 32:

'3. Simplified procedures may be established for specific triangular trade flows at the request of firms with a sufficiently large number of anticipated export operations.

The simplified procedure shall be requested by the holder of the authorization from the customs authority of the Member State which issued the authorization.

This procedure shall provide for the aggregation of anticipated exports of compensating products over a given period for the purpose of issuing an INF 5 form covering the total quantity of the exports over the said period.

4. The request shall be accompanied by any supporting documents necessary for its appraisal. Such documents shall show *inter alia* the frequency of the exports, shall give an outline of the procedures envisaged and shall include particulars showing that it is possible to verify whether the conditions for equivalent goods are fulfilled.

5. When the customs authority is in possession of all the necessary particulars it shall transmit the request to the Commission, with its opinion.

As soon as the Commission receives the request it shall communicate the particulars to the Member States.

The Commission shall decide in accordance with the procedure laid down in Article 31 (2) and (3) of the basic Regulation whether and on what conditions an authorization may be issued, specifying *inter alia* the checks to be used to ensure the proper conduct of operations under the equivalent compensation system.';

7. the following indent is added to Article 62 (2):

'— where a customs debt is incurred as a result of an application for release for free circulation pursuant to Article 27 (3) of the basic Regulation, as long as the import duties payable on the products in question have not yet actually been repaid or remitted.';

8. Article 72 (3) (a) is replaced by the following:

'(a) in respect of each authorization where the value of the import goods per operator and per calendar year exceeds the limits set in Article 6, the particulars indicated in Annex VIII; such particulars need not be transmitted where the inward processing application has been issued on the basis of one or more of the economic conditions referred to by the following codes: 6106, 6107, 6201, 6202, 6301, 6302, 6303, 7004, 7005 and 7006.

Such particulars must also be transmitted when the economic conditions are re-examined for authorizations of indefinite duration, or when changes are made to a previously reported information concerning authorizations already issued.

However, in respect of the products referred to in the second subparagraph of Article 28 (1), particulars must be supplied for every authorization granted, irrespective of the value of the products and irrespective of the code used to identify the economic conditions.';

9. in Annex II, the text of note 7 concerning the application for an authorization is replaced by the text in Annex I to this Regulation;

10. in Annex V, the text of order number 129 is replaced by the text in Annex II to this Regulation;

11. in Annex VII the following order number is inserted:

'Order No	CN code and description of the compensating products		Processing operations from which they result
45 a	ex 1522 00 39	Stearin	Refining fats and oils of Chapter 15'

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 November 1993.

For the Commission

Christiane SCRIVENER

Member of the Commission

ANNEX I

In Annex II, the text of note 7 concerning the application for an authorization is replaced by the following :

'(7) Enter the appropriate code or other requisite information indicating why the essential interests of Community producers are not affected :

Where the operation concerned is one of the following :

— job processing under a contract with a person established outside the Community (to be specified in the application)	code 6201
— operation of a non-commercial nature	code 6202
— repair of goods, including overhaul or adjustment	code 6301
— usual forms of handling to ensure preservation of the goods, to improve their presentation or marketable quality or to prepare them for distribution or resale	code 6302
— operations to be carried out successively in one or more Member States using import goods covered by an authorization issued by virtue of codes 6101 to 6107	code 6303
— operation relating to goods whose value per type of goods and per calendar year does not exceed the amount indicated in Article 6	code 6400

Where the goods to which the application relates are not available in the Community :

— either because they are not produced there	code 6101
— or because they are not produced there in sufficient quantity	code 6102
— or because Community suppliers are unable to make them available to the applicant within a reasonable time	code 6103

Where goods of the same kind are produced in the Community but cannot be used :

— either because their price makes the proposed commercial operation uneconomic	code 6104
— or because they are not of the quality or characteristics necessary to enable the operator to produce the required compensating products	code 6105
— or because they do not conform to the expressly-stated requirements of the non-Community purchaser of the compensating products (e.g. on technical or commercial grounds)	code 6106
— or because the compensating products must be made from the goods specified in the application in order to comply with provisions protecting industrial and commercial property rights (e.g. patents, trade marks)	code 6107

Where Article 7 applies :

— point (a) :	code 7001
— point (b) :	code 7002
— point (c) :	code 7003
— point (d) :	code 7004
— point (e) :	code 7005
— point (f) :	code 7006
Other reasons (specify)	code 8000'.

ANNEX II

In Annex V to Regulation (EEC) No 2228/91 the order number 129 is replaced by the following:

'Import goods		Numerical order	Compensating products		Quantity of compensating products for each 100 kg of imported goods (kg)
CN code	Description		Code	Description	
(1)		(2)	(3)	(4)	(5)
1509 10 10	Olive oil, untreated	129	ex 1509 90 00	(a) Olive oil, refined	98,00
			ex 1519 19 90	(b) Acid oils from refining	(15)
1510 00 10	Olive oil, untreated	129a	ex 1510 00 90	(a) Olive oil, refined	95,00
			ex 1522 00 39	(b) Stearin	3,00
			ex 1519 19 90	(c) Acid oils from refining	(15)'